



**EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
Community Development/Public Works Center
1500 Monroe Street, First Floor Conf. Rm. 1B**

**WEDNESDAY, MARCH 13, 2019
2:00 P.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – January 9, 2019
3. Commercial Truck Parking Ordinance – Joe Adams
4. Commercial Truck Parking LDC Amendments
5. Mining LDC Amendments
6. Adjournment – Next Meeting Date: May 8, 2019

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Draft

MINUTES REPORT EXECUTIVE REGULATORY OVERSIGHT COMMITTEE WEDNESDAY, JANUARY 9, 2019

Committee Members Present:

Randy Mercer, Chair
Carl Barraco, Jr.
Victor Dupont
Bill Ennen

Sam Hagan
Jim Ink
Tim Keene

Michael Reitmann
Michael Roeder
Buck Ward

Committee Members Absent:

Bill DeDeugd
Anthony Pardal

Bob Knight

Darin Larson

Lee County Government & Representatives Present:

Dave Loveland, Director, DCD
Audra Ennis, Zoning Manager
Mikki Rozdolski, Planning Manager
Jessica Sulzer, Dev. Services Manager

Anthony Rodriguez, Princ. Planner, DCD
Dirk Danley, Jr., Senior Planner, DCD
Amanda Swindle, Asst. County Attorney
Pam Hendry, DCD Admin.

Public Participants: Phillip Ford, Building Industry Association

Introduction

Mr. Randy Mercer called the meeting to order at 2:00 PM in the first floor conference room of the Lee County Community Development/Public Works Center, 1500 Monroe Street, Ft. Myers, Florida.

Ms. Amanda Swindle, Assistant County Attorney, reviewed the Affidavit of Posting of Meeting and found it legally sufficient as to form and content.

Approve Meeting Minutes – September 12, 2018

Ms. Tracy Hayden made a motion to approve the September 12, 2018 meeting minutes. Mr. Buck Ward seconded. The motion carried unanimously.

Clean Up Amendments Part 2

Mr. Dirk Danley, Jr. said this is the second part of the biennial cleanup. Most of this is a cleanup and streamlining of existing processes, however there is more of a substantive change to our accessory apartment regulations where a distinction has been made between accessory dwelling unit and accessory apartment. He said we are pulling the DRI language that has been moved as part of this review as the references to State statutes are no longer relevant. Actually, any part of that section has been deleted from State statute and the processes have changed, so we're pulling it now and we'll come back to it in the future with updated State statute references and processes. On page 30 of 48 for temporary use permits it says the timing between permits is 15 days on this draft but we weren't intending to change it past the 45 days as it currently exists, it was a typo.

Regarding Sec. 6-47(a)(1) Building relocation permit, Mr. Keene said he would like to suggest that in the future staff may consider a provision in the building code that will allow someone to do a remodel in conjunction with the move permit instead of separate permits.

Mr. Keene said in Sec.10-102 **FAS 61G15-27.001** should be corrected to say, **FAC 61G15-27.001**.

Regarding Sec. 34-145(3)(c) Mr. Ink asked why are we still specifically making a statement about operations (of existing aircraft landing facilities, airports or heliports), if you're going through a Special Exception one of the criteria is neighborhood compatibility and this would be that. Ms. Rozdolski said it's the only place where it's stated, and you could go back to our protection of the airport facilities in general and the overall safety, welfare of its passengers. Mr. Ink said there are all kinds of other criteria that would come into play. I didn't know if this was Pine Island Mosquito Control coming attractions. Ms. Rozdolski said it's been in there, it's not being done as a response. Mr. Ink said my question is, do we still need it, that's all. Ms. Rozdolski said I'll put a question mark by it.

Ms. Rozdolski said regarding 34-174 Authority to approve administrative actions, what happened is all of the findings of review criteria have been scattered throughout the code so this is putting it in one place so that when you're applying for an administrative amendment you can actually just go to this one section for the list of whether or not the director has the authority to approve it.

Regarding 34-203(b)(5) Commercial Lot Split, Mr. Keene said this is different than the Limited Review Development Order for a lot split, should we title this something slightly different as this has to do with selling a building pad inside of a CPD. Ms. Rozdolski said yes, we probably should call it something different. Mr. Keene said that title is kind of confusing to me because this had to do with the approval just to sell a building pad, you still have to go through the other process. Ms. Rozdolski said what do you want to call it? Mr. Keene said commercial parcel division, something that doesn't sound like the Chapter 10 application for a lot split. Ms. Rozdolski said we'll look at it.

Regarding Sec. 34-261 Development of regional impact (DRI) essentially built-out determination, Ms. Rozdolski said like Mr. Danley said we're not bringing this one forward, we'll keep the numbering but move it under this new Division 8. We didn't change any of the language.

Regarding Sec. 34-411(d) All planned developments must have access to existing or proposed roads. Access must comply with the requirements of chapter 10 and be located so that the site-related industrial traffic does not travel through predominantly residential areas. Mr. Ink said to pretty much every marina in the county you'll predominantly travel through a residential, so I just want to make sure that it's not going to cause problems. Ms. Rozdolski said I read it like it's for construction traffic, but never thought about it in a marina type project. Mr. Ink said that will create a problem, and I agree that it shouldn't be in a residential area as much as possible but in the county to every existing marina you drive through a residential area to get to it. Ms. Rozdolski said it's site-related industrial traffic, so if you have a mixed use development it's saying that your industrial couldn't travel

through your residential. Mr. Ink said if you have an industrial use like boatyards which also exist in residential neighborhoods. Ms. Rozdolski said but it's not site related. Mr. Ink said then it comes down to the definition of site related, we may not be on the same page. To me site related industrial is you're doing industrial activities so it's site related. Ms. Rozdolski said so why would you be going outside of your site? Mr. Loveland said people going to that site for that service have to get there somehow. Ms. Rozdolski said but that's not industrial traffic. Mr. Ink said 107 Marina in Olga is a boatyard and you have to drive through all of Olga to get to it. Ms. Rozdolski said we can look at it because I'm reading also that it's industrial traffic as in trucks and machinery. Mr. Ward said if it's not in an industrial zoning district it's not industrial by definition, right? Mr. Ink sometimes they look at marinas as industrial. Ms. Rozdolski said we'll look at it and provide some clarification. Mr. Loveland said I think there's similar language already in our codes and comp plans about limiting commercial or industrial traffic through residential areas. Mr. Ink said you don't normally want commercial to drive through residential to begin with. Mr. Loveland said but then we end up with arguments like people that live on Corkscrew Road that want to treat an arterial road like a neighborhood street and claim that all the commercial and industrial traffic is impacting their neighborhood, but it's an arterial that accesses the interstate. Ms. Rozdolski said we can take away that last sentence (Access must comply with the requirements of chapter 10 and be located so that site-related industrial traffic does not travel through predominantly residential areas.) because technically access has to comply with Chapter 10.

Regarding Sec. 34-3041 (d)(2) Ms. Ennis said it should read, "... The temporary uses may not run consecutively and must be separated by a minimum of 45 (not 15) days", which is current code language.

Regarding Sec. 34-1493(1)(c) Mr. Ink asked the intent of the language about residential development rights being severed from the non-residential project area. Ms. Rozdolski said if you're taking the density and building it all in one area of a development and selling off the other piece for commercial you'd have to put it in the covenants so that someone buying that piece would be aware that they don't have any density left on that and the only thing they could have is intensity. Mr. Ink said can we work on a definition of intensity someday? Ms. Rozdolski said we probably should, we all use it. Mr. Ink said we all use it but we just all have different opinions of what it means. Mr. Ink said why doesn't the county get into the FAR stuff? Ms. Rozdolski said I don't think it's ever been done. Mr. Ink said no we've never had an FAR in the county but everywhere else has FAR. Mr. Loveland said we'd have to hire engineers to calculate it. Ms. Rozdolski said we've thought about it in a couple of places. Mr. Ink said it's come up a number of times and it just seems to real quickly go away. Ms. Rozdolski said it's mostly because everything would be nonconforming. Mr. Ink said maybe, maybe not. Ms. Rozdolski said what don't we accomplish with our lot coverage and open space requirements? You kind of back into it anyway. Mr. Keene said you can do everything you could do allowable under intensity or density as long as you have open space, right? Ms. Rozdolski said right. Mr. Ink said in a public hearing you have to sell it that my height, which really dictates your intensity, is allowable or not allowable. Ms. Rozdolski said in a mixed use overlay you can go up to whatever the maximum is in that future land use category and you don't have to rezone. Mr. Mercer said it sounds like a conversation for another time but we're happy to look at

anything you can persuade them to look at before we do. Is that mixed use overlay language moved from somewhere else? Ms. Rozdolski said it's new language and last year or the year before we actually adopted new language for mixed use overlay and this is something that's come out as a result of meetings on projects and the reality of what needs to happen.

Mr. Jim Ink made a motion to accept the amendments with the noted changes. Ms. Tracy Hayden seconded. The motion carried unanimously.

Mr. Mercer said will the suggested changes from the September 12th meeting and this meeting be presented to the commissioners? Ms. Rozdolski said your comments, the comments from LDCAC and the LPA will go to the board of county commissioners. Mr. Loveland said where we have the staff notes explanation at the end of each section, we'll also add in the specific recommendations from each of the committees.

Mr. Keene said he would like to suggest that the staff notes about what's changed be put ahead of the section verses the end of the section because it lets me read the changes with an idea of what's expected.

ADJOURNMENT

The meeting adjourned at 3:07 PM.

The next meeting was tentatively scheduled for March 13, 2019.

ADDEMDUM: Attached is an email from Mr. Tim Keene regarding 34-1493(1)(c) language changes.

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Commercial Truck Parking Ordinance

Joe Adams

EROC ORDINANCE EVALUATION GUIDELINES

Proposed Ordinance: Lee County Commercial Truck Parking Ordinance

1. What is the public interest that the ordinance is designed to protect?

Certain residential areas in Lee County including neighborhoods in Lehigh Acres and North Fort Myers are currently blighted by the parking of semi-trucks, tractor trailers, dump trucks, etc. on vacant lots and right-of-ways. The ordinance seeks to protect the residential character of these neighborhoods.

2. Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?

No, current County regulations have proven ineffective at protecting the identified public interest. The typical code enforcement process of levying fines has not deterred the conduct. This ordinance will allow the trucks to be towed for repeat violations of the ordinance.

3. Is the regulation required by State or Federal law? If so, to what extent does the county have the authority to solve the problem in a different manner?

No.

4. Does the regulation duplicate State or Federal program? If so, why?

No.

5. Does the regulation contain market-based incentives? If not, could that be used effectively?

No.

6. Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?

Yes. The Ordinance defines a commercial truck with the same language as the current county regulation that prohibits this conduct. The ordinance only prohibits the parking of very large commercial vehicles. See definition of commercial truck on page 2.

7. Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?

This ordinance benefits the public as a whole as it protects the residential character of Lee County neighborhoods.

8. Does the regulation impact vested rights?

No, the conduct is already prohibited but current enforcement mechanisms have proven ineffective at deterring the conduct.

9. Does the regulation provide prompt and efficient relief mechanism for exceptional cases?

The ordinance does provide some exceptions including but not limited to a truck parked in an enclosed garage, a truck used for agricultural purposes on agricultural property, and trucks making deliveries and service calls.

10. Even though there is an interest to be protected, is it really worth another regulation?

Yes there is public outcry from many residents of Lee County upset with the number of commercial trucks being parked in residential neighborhoods.

11. Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?

Yes, ordinances that allow the towing of vehicles have been effective in other jurisdictions.

12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?

This Ordinance is not expected to cost the County any more than is already spent in enforcement of the current regulation. In fact, the ordinance is expected to deter the conduct and cut costs of enforcement activities.

LEE COUNTY ORDINANCE NO. 19-__

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA ESTABLISHING THE LEE COUNTY COMMERCIAL TRUCK PARKING ORDINANCE; PROVIDING FOR THE PROHIBITION OF PARKING COMMERCIAL TRUCKS ON RESIDENTIALLY AND AGRICULTURALLY ZONED PRIVATE PROPERTY; PROVIDING FOR THE PROHIBITION OF PARKING COMMERCIAL TRUCKS ON PUBLIC RIGHT-OF-WAYS; PROVIDING FOR THE ESTABLISHMENT OF PROCEDURES FOR THE ISSUANCE OF PARKING CITATIONS AND TICKETS WHEN THE TERMS OF THIS ORDINANCE ARE VIOLATED; AND PROVIDING FOR THE ESTABLISHMENT OF PROCEDURES FOR THE TOWING OF VEHICLES WHEN THE TERMS OF THIS ORDINANCE ARE VIOLATED.

WHEREAS, the Board of County Commissioners is the governing body in and for Lee County, a political subdivision of the State of Florida; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, finds that many residential areas in unincorporated Lee County have been blighted by the parking of commercial trucks including, but not limited to, semi-trailer trucks and tractor-trailers; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, finds that many public right-of-ways in unincorporated Lee County have been blighted by the parking of commercial trucks including, but not limited to, semi-trailer trucks and tractor-trailers; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, finds that the parking of commercial trucks in residential areas and on public right-of-ways is detrimental to the health, safety and welfare of the citizens of Lee County; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, further finds that the parking of commercial trucks on such property creates a public nuisance which cannot be satisfactorily abated by the enforcement of existing codes and ordinances; and,

WHEREAS, Chapter 125, Florida Statutes, authorizes the Board of County Commissioners of Lee County, Florida, to adopt and enforce laws for the protection of the public health, safety and welfare; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, pursuant to Section 125.01, Florida Statutes, has the power to establish, coordinate, and enforce zoning regulations on private property; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida, pursuant to Section 125.01, 316.006, and 316.008, Florida Statutes, retains jurisdiction over the public right-of-ways in the unincorporated areas of Lee County; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida pursuant to Section 125.69, and Chapter 316, Florida Statutes, is authorized to establish procedures for the issuance of parking citations/tickets when the terms of this Ordinance are violated; and,

WHEREAS, the Board of County Commissioners of Lee County, Florida pursuant to Chapter 125, Florida Statutes, is authorized to establish procedures for the towing of vehicles when the terms of this Ordinance are violated; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, finds it necessary to the promotion of the public health, safety and welfare that an Ordinance be passed which prohibits the parking of commercial trucks in residential areas and on public right-of-ways, establishes a procedure for the issuance of parking citations/tickets when the terms of this Ordinance are violated, and establishes procedures for the towing of vehicles violating the terms of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: SHORT TITLE

This Ordinance may be cited as the "Lee County Commercial Truck Parking Ordinance".

SECTION TWO: DEFINITIONS

The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context otherwise requires:

- A. Board of County Commissioners: The Board of County Commissioners of Lee County, Florida.
- B. Clerk: Clerk of the Circuit Court and County Court of Lee County, Florida.
- C. Code Enforcement Specialist: Any authorized agent or employee of Lee County whose duty it is to assure code compliance.
- D. Commercial Truck: A vehicle that is:
 - 1. A semi-trailer truck or tractor-trailer; or
 - 2. A truck with two or more rear axles; or
 - 3. A truck with a manufacture's Gross Vehicle Weight Rating (GVWR) in excess of 15,000 pounds; or
 - 4. Any truck and trailer combination, excluding a trailer used solely for non-commercial or recreational purposes, resulting in a combined manufacturer's GVWR in excess of 15,000 pounds.

As used herein, the term shall not mean Recreational Vehicle.

- E. County: Lee County, Florida.
- F. Daytime: The period from a half hour before sunrise to a half hour after sunset.
- G. Director: The Director of Lee County Community Development or designee.

- H. Gross Vehicle Weight: The weight of the originally equipped motor vehicle and all items added to it after it has left the factory. This would include the driver and all occupants and the load the vehicle is carrying, as established by the manufacturer.
- I. Land Development Code: The Lee County, Florida, Land Development Code.
- J. Mobile Carrier: An electrically powered device that:
 - 1. Is operated on sidewalks and crosswalks and is intended primarily for transporting property;
 - 2. Weighs less than 80 pounds, excluding cargo;
 - 3. Has a maximum speed of 12.5 mph; and
 - 4. Is equipped with a technology to transport personal property with the active monitoring of a property owner and primarily designed to remain within 25 feet of the property owner.

A mobile carrier is not considered a vehicle or personal delivery device unless expressly defined by law as a vehicle or personal delivery device.

- K. Official Signs: Any sign which is placed or erected by the authority of a public body or official having jurisdiction for the purpose of regulating, guiding, or warning traffic or prohibiting parking.
- L. Owner: A person who holds the legal title of a vehicle.
- M. Park or Parking: The standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers or performing maintenance or repair services to or upon real property or improvements located thereon as may be permitted by law under this Ordinance.
- N. Parking Citation: Official form used by Lee County Code Enforcement to notify the owner of a vehicle that said vehicle is parked in the violation of the terms of this Ordinance which subjects the owner to possible fines imposed by same.
- O. Parking Ticket: Official form used by the Sheriff to notify the owner of a vehicle that said vehicle is parked in the violation of the terms of this Ordinance which subjects the owner to possible fines imposed by same.
- P. Parking Enforcement Specialist: A person appointed by the Sheriff to enforce parking regulations who has successfully completed a training program established and approved by the Police Standards and Training Commission for parking enforcement specialists, but who does not otherwise meet the uniform minimum standards established by the Police Standards and Training Commission for police officers or auxiliary or part-time officers under Section 943.12, Florida Statutes.
- Q. Person: Any natural person, firm, co-partnership, association or corporation.

- R. Personal Delivery Device: An electrically powered device that:
1. Is operated on sidewalks and crosswalks and intended primarily for transporting property;
 2. Weighs less than 80 pounds, excluding cargo;
 3. Has a maximum speed of 10 miles per hour; and
 4. Is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

A personal delivery device is not considered a vehicle unless expressly defined by law as a vehicle. A mobile carrier is not considered a personal delivery device.

- S. Public Right-of-way: See “Right-of-way.”
- T. Repeat Violation: A violation of this Ordinance by a vehicle owner who has previously violated this Ordinance and been issued a parking citation within 5 years prior to the violation, notwithstanding the violations may occur at different locations.
- U. Right-of-way: The word “right-of-way” shall mean the entire width between the boundary lines of every road, roadway or land area of whatever nature dedicated or open to the use of the public for the purpose of vehicular traffic or pedestrian traffic or otherwise, including state roads, both primary and secondary, and county roads acquired by dedication, condemnation, use or otherwise.
- V. Sheriff: The Sheriff of Lee County or his duly appointed deputies.
- W. Stand or Standing: The halting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in, receiving or discharging passengers or performing maintenance or repair services to or upon real property or improvements located thereon as may be permitted by law under this Ordinance.
- X. Removal Notice: Official form used by Lee County Code Enforcement to notify the owner of a vehicle that said vehicle is parked in violation of the terms of this Ordinance and, further notify the vehicle owner that if the violation continues beyond the specified reasonable time to remove the vehicle, the code enforcement specialist may issue a parking citation.
- Y. Vehicle: Any device in, upon, or by which any person or property is or may be transported or drawn upon a road right-of-way, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.

SECTION THREE: PROHIBITION OF PARKING ON RESIDENTIALLY AND AGRICULTURALLY ZONED PROPERTY

- A. Prohibition of Parking on Property in Residential and Agricultural Zoning Districts:

It shall be a violation of this Ordinance to park a commercial truck on any property zoned in accordance with Chapter 34 of the Land Development Code as:

1. AG agricultural
2. RS residential single-family
3. RSA residential single-family
4. RSC residential single-family conservation
5. TFC residential two-family conservation
6. TF residential two-family
7. RM residential multiple-family
8. MH mobile home residential
9. PUD planned unit development
10. RPD residential planned development
11. RV recreational vehicle
12. RVPD recreational vehicle planned development
13. MHPD mobile home planned development
14. MPD mixed use planned development (limited to the residential portion of a MPD).

B. Exceptions:

1. Daytime deliveries or daytime service calls;
2. A truck parked in a completely enclosed garage;
3. A truck parked on any property zoned AG, provided:
 - a. The property is not vacant; AND
 - b. The truck is part of and primarily used for a legally permitted agricultural use in existence on the property.
4. A truck used for emergency service work by a person employed by a public utility, when approved by the Director, provided:
 - a. The truck is parked while the employee is on "emergency on-call status;" AND
 - b. Only one emergency service truck is allowed for each employee residing at the property; AND
 - c. The truck may not be stored at the property.

C. Enforcement Authority:

The Lee County Code Enforcement Section is authorized to enforce violations of this Section through the enforcement procedures set forth below.

D. Enforcement:

1. Removal Notice:
 - a. When a violation of this Section is discovered, and prior to issuance of a citation, a code enforcement specialist must place a written removal notice on a conspicuous place upon the vehicle.

- b. If the owner of the vehicle can be ascertained, the removal notice may be provided to that person rather than being placed upon the vehicle.
- c. The removal notice must provide the owner notice that a violation of this Ordinance has occurred and provide a reasonable amount of time to remove the vehicle.
- d. The placing of the removal notice upon the vehicle shall be considered sufficient notice to the owner that a violation of this Section has occurred.

2. Citation:

- a. If, upon investigation, a code enforcement specialist finds that the vehicle has not been removed within the reasonable time provided in the removal notice, the code enforcement specialist may issue a citation to the owner of the vehicle.
- b. If the owner of the vehicle cannot be ascertained, the citation may be placed on a conspicuous place upon the vehicle.
- c. The citation shall inform the owner that they have been found in violation of this Ordinance and may assess a fine in accordance with Section 125.69, Florida Statutes, or its successor.
- d. The citation shall inform the owner that they have thirty (30) days either to contest the citation by requesting a court date from the Clerk's office or to pay the fine indicated on the citation.
- e. The citation shall inform the owner that if they fail to either pay the fine or request a court date within thirty (30) days that they may be held in contempt of court and a warrant for their arrest may be issued.
- f. The citation shall inform the owner that if a repeat violation of this Ordinance occurs, the vehicle may be towed at the expense of the owner.

3. Repeat Violations:

- a. If a repeat violation is found subsequent to the issuance of a citation, the code enforcement specialist may immediately issue a citation in accordance with the Section above and without the placement of a removal notice.
- b. If a repeat violation is found subsequent to the issuance of a citation, the Director is authorized to cause the vehicle to be towed.
- c. The County shall not be responsible for the payment of any fees necessary for the release of the vehicle.
- d. Any cost incurred by the County in the towing and storage of the vehicle shall be paid by the owner.

SECTION FOUR: PROHIBITION OF PARKING ON PUBLIC RIGHT-OF-WAYS

A. Prohibition of Parking on Right-of-Way:

It shall be a violation of this Ordinance to park a commercial truck on any public right-of-way in unincorporated Lee County. Official Signs shall be erected at the locations depicted and described on "Exhibit A" and "Exhibit B" to this Ordinance. The Official Signs shall provide notice that parking commercial trucks on Public right-of-ways is prohibited. The Official Signs shall provide notice that violators may be ticketed and/or towed. The Official Signs shall reference this Ordinance. The Lee County Department of Transportation shall have the authority and responsibility to erect the Official Signs.

B. Exceptions:

1. Daytime deliveries or daytime service calls;
2. If specifically authorized by an official sign to park on a certain area of a public right-of-way.

C. Enforcement Authority:

The Lee County Sheriff's Office is authorized to enforce violations of this Section through the enforcement procedures set forth below.

D. Enforcement:

1. Ticket:
 - a. When a violation of this Section is discovered, a sheriff's officer or parking enforcement specialist may issue a ticket to the owner.
 - b. If the owner cannot be ascertained, the ticket may be placed on a conspicuous place upon the vehicle.
 - c. The ticket shall inform the owner of the violation of this Ordinance and may assess a fine in accordance with Chapter 316, Florida Statutes, or its successor.
 - d. The ticket shall inform the owner that they have thirty (30) days either to contest the citation by requesting a court date from the Clerk's office or to pay the fine indicated on the ticket.
 - e. The ticket shall inform the owner that if they fail to either pay the fine or request a court date within thirty (30) days that they may be held in contempt of court and a warrant for their arrest may be issued.
 - f. The ticket shall inform the owner that if a vehicle under his/her ownership is found to be in violation of this Ordinance again in the future, the vehicle may be towed at the expense of the owner.

2. Towing:
 - a. If a vehicle is found to be parked in violation of this Section, and the owner has previously been issued a ticket for violating this Ordinance, the Sheriff is authorized to cause the vehicle to be towed.
 - b. The Sheriff's Office shall not be responsible for the payment of any fees necessary for the release of the vehicle.
 - c. Any cost incurred by the Sheriff's Office in the towing and storage of the vehicle shall be paid by the owner.

SECTION FIVE: SUPPLEMENTAL

This Ordinance is supplemental to any other lawfully adopted ordinances or laws that regulate parking in the County.

SECTION SIX: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of other lawfully adopted ordinances or statutes, the most restrictive requirements will apply.

SECTION SEVEN: SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board of County Commissioners hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional.

SECTION EIGHT: SCRIVENER'S ERRORS

The Board of County Commissioners intends that this Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION NINE: MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION TEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner _____ made a motion to adopt the foregoing Ordinance, seconded by Commissioner _____. The vote was as follows:

John Manning	—
Cecil Pendergrass	—
Larry Kiker	—
Brian Hamman	—
Frank Mann	—

DULY PASSED AND ADOPTED this 7th day of May, 2019.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Larry Kiker, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

Office of the County Attorney

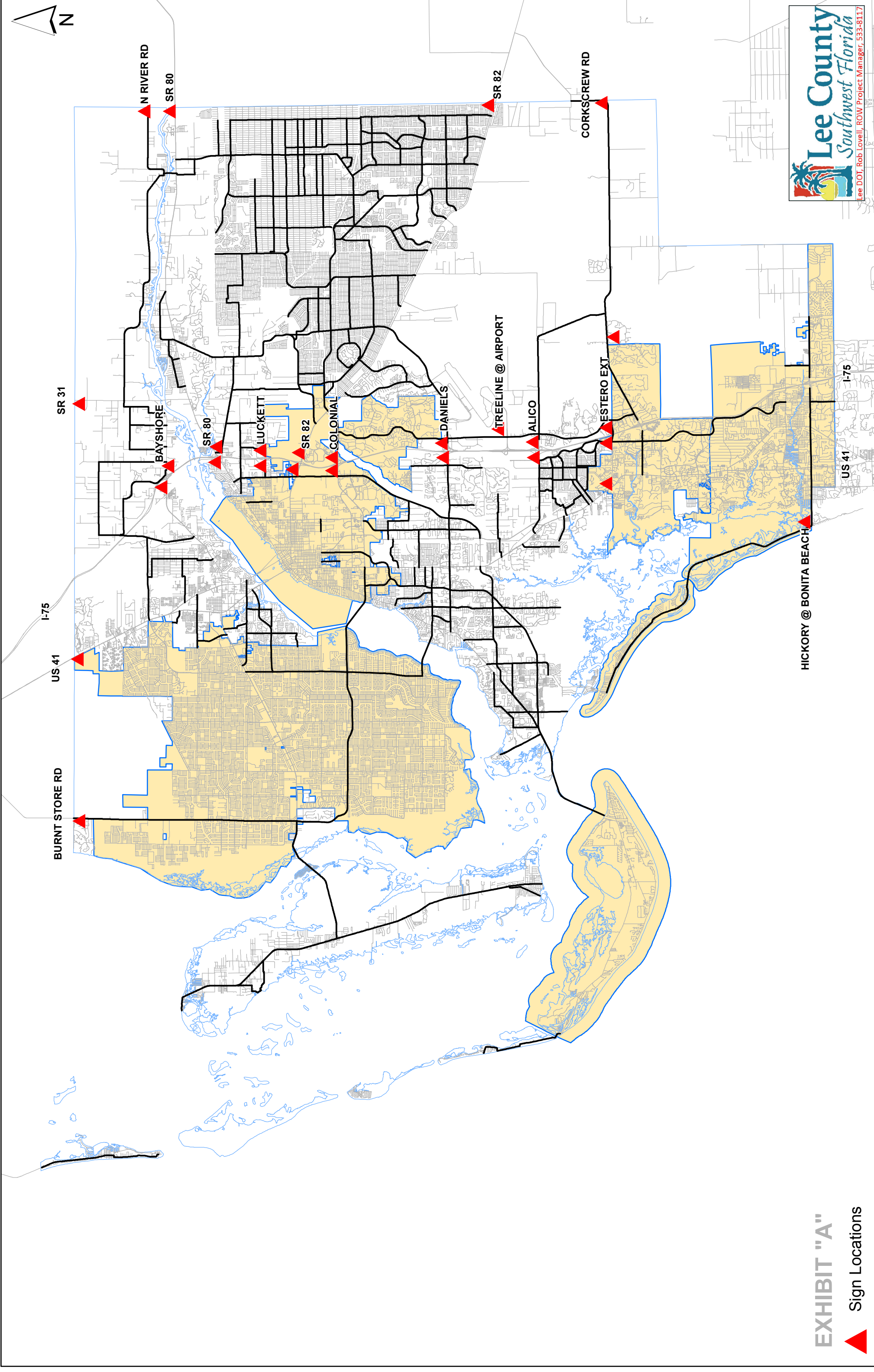


EXHIBIT "A"

Sign Locations



EXHIBIT "B"

Sign Locations

On Street	Between	And	Direction
Burnt Store Rd	Charlotte County Line	Islamorada Blvd	SB
US 41	Charlotte County Line	Herons Glen Blvd	SB
SR 31	Charlotte County Line	Busbee Ln	SB
North River Rd	Hendry County Line	Silver Shores Ln	WB
Palm Beach Blvd	Hendry County Line	Floweree Rd	WB
Immokalee Rd	Hendry County Line	Columbus Blvd	WB
Corkscrew Rd	Collier County Line	TPI Rd	WB
Corkscrew Rd	Bella Terra Blvd	Panther Island Blvd	EB
Bonita Beach Rd	Lely Blvd	Kings Kew	WB
US 41	Estero Pkwy	Vintage Pkwy	NB
Three Oaks Pkwy	Estero Pkwy	Koreshan Way	NB
Ben Hill Griffin Pkwy	Estero Pkwy	Eagle Village Dr	NB
Alico Rd	Royal Queen Blvd	Ben Hill Griffin Pkwy	EB
Alico Rd	I-75 SB Ramp	Three Oaks Pkwy	WB
Terminal Access Rd WB Ramp	Terminal Access Rd	Treeline Ave	WB
Daniels Pkwy	Jetport Commerce Pwky	Treeline Ave	EB
Daniels Pkwy	Danport Blvd	Palomino Ln	WB
Colonial Blvd	Colonial Country Club Blvd	Treeline Ave	EB
Colonial Blvd	Colonial Center Dr	Ortiz Ave	WB
Dr. Martin Luther King Blvd	Destination Dr	Forum Blvd	EB
Dr. Martin Luther King Blvd	Park Plaza	Ortiz Ave	WB
Luckett Rd	Northland Dr	Country Lakes Dr	EB
Luckett Rd	Enterprise Pkwy	Golden Lake Rd	WB
Palm Beach Blvd	I-75 NB Ramp	Orange River Blvd	EB
Palm Beach Blvd	I-75 SB Ramp	Morse Plaza	WB
Bayshore Rd	Pritchett Pkwy	Wells Rd	EB
Bayshore Rd	Park 78 Dr	Williamsburg Dr	WB

Commercial Truck Parking LDC Amendments

MEMORANDUM

**FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT**

TO: Executive Regulatory **DATE: February 25, 2019**
Oversight Committee Members

FROM: Audra M. Ennis *AME*
Zoning Manager

**RE: Land Development Code (LDC) Amendments
 Section 34-1181, Trucks and Commercial Vehicles in Residentially and
 Agriculturally Zone Districts**

The Board of County Commissioners, in accordance with Florida Statutes, has directed the County Attorney's Office to prepare an ordinance prohibiting the parking of commercial trucks on residentially- and agriculturally-zoned private property and within public rights-of-way. This ordinance (the Commercial Truck Parking Ordinance) is currently under review and is anticipated to be adopted on May 7, 2019.

The attached LDC amendments are intended to ensure consistency with the proposed provisions of the Commercial Truck Parking Ordinance.

Staff requests that the EROC recommend approval of the proposed LDC Amendments.

Sec. 34-1181. - Trucks and commercial vehicles in residentially and agriculturally zoned districts.

Staff Note: Eliminate portions of language inconsistent with the Lee County Commercial Truck Parking Ordinance currently under review with an anticipated adoption date of May 7, 2019.

- (a) Except as provided below, the following types of trucks or commercial vehicles may not be parked or stored on any property zoned AG, RS, RSA, RSC, TFC, TF, RM, MH, RV, PUD, RPD, RVPD, MHPD, or the residential portion of a MPD:
- (1) A tractor-trailer or semi-trailer truck; or
 - (2) A truck with two or more rear axles; or
 - (3) A truck with a manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 15,000 pounds; or
 - (4) Any truck and trailer combination, excluding a trailer used solely for non-commercial or recreational purposes, resulting in a combined manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 15,000 pounds.
- (b) Exceptions:
- (1) Daytime deliveries or service calls;
 - (2) Trucks and equipment parked or stored within a completely enclosed garage building in conjunction with an approved home occupation pursuant to section 34-1772;
 - (3) A truck or commercial vehicle parked or stored on any property zoned AG, provided:
 - a. The property is not vacant; AND
 - b. The truck or commercial vehicle is part of and primarily used for a legally permitted agricultural use in existence on the property; ~~OR~~
 - c. ~~The person operating the truck or commercial vehicle is a resident of the property and is appropriately licensed to drive the truck or commercial vehicle. This provision is intended to allow a resident in the agriculturally zoned districts (AG) to drive one truck home from work. It is not intended to allow a business to be run from the property.~~
 - (4) Trucks or vehicles used for emergency service work by a person employed by a public utility, when approved by the Director, provided:
 - a. The truck or vehicle is parked while the employee is on "emergency on-call status;" and
 - b. Only one emergency service truck is allowed for each employee residing at the property; and
 - c. The truck may not be stored at the property.

(Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 03-16, § 6, 6-24-03)

Mining LDC Amendments

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Executive Regulatory
Oversight Committee Members

DATE: February 25, 2019

FROM: Audra M. Ennis 
Zoning Manager

RE: **Land Development Code (LDC) Amendments**
Chapter 12, Resource Extraction

On November 17, 2015, the Board of County Commissioners (BoCC) directed staff to identify amendments to the Lee Plan and Land Development Code to align with the BoCC's strategic planning initiatives, streamline, eliminate potential liabilities, reduce redundancy/conflict within and between the Lee Plan and Land Development Code, and relocate regulatory provisions to the Land Development Code.

The attached LDC amendments are intended to implement the pending amendments to the resource extraction and limerock mining provisions of the Lee Plan (CPA2018-10014) prepared in accordance with this direction. The amendments establish a requirement for a mandatory public information meeting (Policy 10.2.8) to provide an additional public input opportunity, increase the setback for mining activities from residential property lines, and clarify the deviation and variance approval process as it applies to Chapter 12.

The Local Planning Agency (LPA) reviewed the proposed Lee Plan and LDC amendments on January 28, 2019 and provided the following comments:

- The proposed 2,000-foot setback from residential property lines based on consultant opinion in recent cases may not be appropriate given the limited analysis justifying the setback change. The LPA recommended retaining the 150-foot setback currently contained in the LDC;
- The LPA recommended courtesy mailings for the public information session be required for properties within 750 feet of the perimeter of a property subject to a Mining Excavation Planned Development; and
- The LPA recommended considering additional language regarding compatibility with airport facilities.

Staff responses to the recommendations of the LPA are noted in the staff annotations preceding each of the sections subject to change.

Staff requests that the EROC recommend approval of the proposed LDC Amendments.

Sec. 12-107. - Lee Plan consistency.

Staff Note: Add new Lee Plan Policy reference for airport facilities consistent with proposed Lee Plan amendments.

The following Lee Plan policies must be adhered to in applying for and conducting mining activities:

- (1) Mining activities and mining reclamation plans in or near important water resource areas must be designed to minimize the possibility of contamination of the water during mining activity and after completion of the reclamation.
- (2) Mining operations must meet or exceed local, state and federal standards for noise, air, water quality, and vibration. (Lee Plan Policy 7.1.1)
- (3) Mining activities must be located and designed so as to minimize adverse environmental impacts and water resource impacts.
- (4) Mining activities, and industrial uses accessory to mining activities, must:
 - a. Have adequate fire protection, transportation facilities, wastewater treatment and water supply; and
 - b. Not precipitate significant negative effects with respect to dust, glare, light trespass and noise on surrounding land uses and natural resources.
- (5) Mining activities and reclamation efforts must facilitate the connection of natural resource extraction lakes and borrow lake excavations into a system of interconnected lakes and flowways that will enhance wildlife habitat values, and strengthen environmental benefits.
- (6) Mining operations must not result in adverse vibration, noise, air, water quality, or hydrology impacts on existing and planned airport capacities, facilities, and operations. (Lee Plan Policy 47.2.7)

(Ord. No. [08-21](#), § 2, 9-9-08)

Sec. 12-108. - Approval process for mine excavation planned development.

Staff Note: Add provision requiring public information meeting consistent with Lee Plan amendments. LPA recommended language requiring a courtesy mailing to properties within 750 feet of a property subject to MEPD approval in addition to advertising requirement for public information session. Staff did not revise language since notice would direct inquiries to staff prior to the filing of an MEPD application.

- (a) *Process objective.* The objective of this process is to provide a unified process based upon comprehensive information submitted for review of both the use and development rights. The process is designed to minimize review and resubmittal time frames as well as the time elapsing between approval of the proposed mining activity and actual resource extraction on the mine site.
- (b) *Effect of Chapters 10 and 34.* The process and resulting approvals are not subject to the provisions in Chapter 10 or Chapter 34 unless specifically stated.
- (c) *Mandatory pre-application meeting.* The applicant must attend a pre-application meeting with appropriate County staff prior to submittal of the MEPD application. Appropriate County staff representatives from the following departments must be in attendance at this meeting: Zoning, Development Services, Department of Transportation, Natural Resources and Environmental Sciences; and local representatives from the Department of Environmental Protection, Florida Department of Transportation, South Florida Water Management District and the Army Corps of Engineers should also be invited to attend. During the meeting the applicant must be prepared to discuss the following topics: location of the project, extent/boundaries of the mine project, size of

mine, depth of the mine, amount of material the applicant anticipates will be excavated over the life of the mine, proposed duration of mine activity, mine design alternatives including cell mining, potential associated mine activities, phasing, water issues, transportation impacts, watershed boundaries, habitat issues, environmental issues, water monitoring, surrounding uses, Lee Plan compliance, and state and federal permit issues. The applicant must bring maps and other documentation to facilitate discussion with respect to these issues. Subsequent to the meeting, the County will provide the applicant with a memorandum outlining issues relevant to the applicant's future submittal. This memorandum is intended to assist the applicant in preparing the formal submittal and does not confer any specific rights to the applicant with respect to approvals or submittals.

(d) Mandatory public information meeting. The applicant must hold a public information meeting at a location within three miles of the affected Community Plan area prior to submittal of the MEPD application. The applicant must provide a meeting space and any security measures adequate to accommodate the projected attendance. Advance notice of the meeting must be published in a publication of local distribution at least ten (10) calendar days prior to the meeting, with proof of publication provided to the Department of Community Development at the time of application. At the meeting, the applicant must present a general overview of the proposed MEPD and provide the opportunity for public input. A meeting summary document containing the following information must be submitted at the time of application: the date, time, and location of the meeting; a list of attendees; a summary of concerns or issues raised during the meeting; and the applicant response to concerns or issues raised.

(de) *Mine Excavation Planned Development (MEPD) approval.* The MEPD approval is issued by the Board of County Commissioners based upon the recommendations of the County staff and Lee County Hearing Examiner in accordance with sections 34-83 and 34-145(d). A hearing before the Board of County Commissioners will be scheduled after the applicant submits a MEPD application on the form specified by the County, achieves sufficiency for hearing before the Hearing Examiner, and obtains a recommendation from the Hearing Examiner to the Board for consideration at the end of a regular Board Zoning agenda day. The specific Board hearing date will be determined by County staff.

Unlike typical chapter 34 zoning approvals, the MEPD approval will encompass and be based upon zoning issues as well as technical information and detail traditionally reserved for review under chapter 10. The Board's decision with respect to the MEPD application will be set forth in a resolution, along with the findings and conclusions applicable to the approval or denial. A resolution approving the MEPD will include conditions applicable to the mine operation along with a detailed set of plans for site development and subsequent mine operation activity.

(ef) *Mine development order (MDO).* The MDO is intended to address all on-site and off-site improvements necessary to carry out the mine operation as approved by the Board and is based upon the conditions and exhibits that constitute the MEPD resolution. Therefore, the County encourages concurrent submittal and review of the MEPD and MDO applications in order to achieve the time efficiencies anticipated by this mine permitting process.

Review of the MDO application requires the County staff to verify that the site construction plans accurately and substantively reflect the conditions of the MEPD approval. The applicant may not propose substantive changes or amendments to the MEPD approval resolution through the MDO process. However, the Director has the discretion to administratively approve, as part of the MDO, nonsubstantial changes to the MEPD approval necessary to achieve the intent of the MEPD approval as granted by the Board.

MDO applications and submittals will be processed in the manner set forth in section 10-108 through 10-110.

A MDO will not be issued to allow activity within an area under Army Corps of Engineers' jurisdiction, as identified by the permit application submitted to the State/Federal agency, prior to obtaining the necessary State/Federal approvals.

- (fg) *Mine operation permit (MOP)*. A MOP approval allows the mine operator to commence off-site hauling, and to place into use accessory operations on the mine site such as concrete and asphalt batch plants. The items that must be complete prior to the issuance of a MOP approval will be specified in the MEPD resolution and the MDO approval.

On-site and off-site improvements and related documents that will typically precede issuance of a certificate of compliance under the MDO, which results in the issuance of the MOP and allows off-site hauling of extracted resources or operation of accessory mine facilities, may include, but are not limited to:

- (1) Installing off-site turn lanes and other on-site roadway improvements.
- (2) Constructing on-site truck staging area.
- (3) Installing truck wash and tire wash facilities.
- (4) Constructing on-site paved ingress/egress roads from the front gate to the scale house.
- (5) Installing on-site groundwater and surface water monitoring wells.
- (6) Installing pollution contamination containment structures and devices.
- (7) Installing stormwater pollution prevention devices such as silt barriers and turbidity control devices as required.
- (8) Approval of sureties related to pavement maintenance, reclamation etc.
- (9) Constructing perimeter berms and buffers.
- (10) Installing dewatering hydraulic recharge trenches and staff gauges for monitoring water elevation in trenches.
- (11) Compliance with all conditions of the ERP and water use permits relative to excavation activities.
- (12) Approval of a transportation impact mitigation plan.
- (13) Installation of required permanent traffic count stations.
- (14) Installation of utilities.
- (15) Recording conservation easements.
- (16) Other items required under conditions of the MEPD.

The MOP approval will be contained in the certificate of compliance issued by the Director with respect to full compliance with the MDO approval. The MOP will be issued only after review of all required applicant certifications (engineer, landscape architect, etc) and verification that all MDO permit requirements are complete based upon County mine site inspections. Inspections will be performed by appropriate County departments to verify completion in the manner set forth in chapter 10 as applicable to the issuance of a development order certificate of compliance. The MOP is valid for ten years. The date the MOP is issued will establish the effective date for purposes of determining when the MOP must be renewed.

- (gh) *Renewal of mine operation permit*. A MOP renewal allows the mine operator to continue full operation of the mine and related accessory mine uses in accord with all permit approvals. A MOP for mines approved after September 1, 2008, must be renewed in accordance with section 12-115. Existing mines must obtain MOP renewal in accord with section 12-121.

- (hi) *Sufficiency of applications and review*. Applications submitted with respect to zoning and development approval under this article will be reviewed by County staff within 30 business days after receipt; and, a letter advising the applicant of the status of the application will be provided. If

insufficient, the letter will include a brief explanation as to why the application is not complete for review and request the necessary additional information. The applicant will have 60 days to submit a written response and the requested information. If the applicant requires more than 60 days to submit a response, the County may grant an additional 60 days to respond based upon the applicant's written request to the Director substantiating diligent pursuit of the response or resubmittal. If the applicant fails to submit a response or request additional time within the 60-day period, the County may deem the application withdrawn. This submittal and review process will be repeated until the application is found sufficient for hearing, if a rezoning request, or approval of a MDO/MOP request.

Once an application has been found sufficient for hearing through the rezoning process, any new information submitted by the applicant or changes made to the information reviewed by County staff in preparing its recommendation, may at the discretion of the Director, be grounds for the County staff to defer or continue the public hearing depending on the advertised status of the hearing. County staff may also revoke the finding of sufficiency and withdraw the case from Hearing Examiner consideration without regard to the status of the advertising.

(Ord. No. [08-21](#), § 2, 9-9-08; Ord. No. [11-08](#), § 5, 8-9-11)

Sec. 12-113. - Site design requirements.

Staff Note: Clarify deviation and variance applicability. Add compatibility language for public facilities and airports per LPA comment. Delete 2,000-foot residential setback per LPA comment. Revised 660-foot setback is consistent with required setbacks for uses with similar impacts (see Sec. 34-2443). Modify language for consistency throughout subsection and strike adjacent to ensure all properties within setback area receive equal treatment.

(a) *Design Standards.* Mining activities will be subject to the following design standards. The Board of County Commissioners may modify these standards as a condition of approval when in the public interest, or where they determine a particular requirement unnecessary due to unusual circumstances.

(b) *Mining operations must be located, designed and operated to:*

- (1) Be compatible with surrounding private and publicly owned lands with special consideration given to protection of surrounding conservation and preservation ~~owned lands and public facilities and airports.~~
- (2) Avoid adverse effects to existing agricultural, residential, public, and ~~or~~-conservation activities in the surrounding area.
- (3) Avoid adverse effects from dust, noise, vibration, lighting, ~~or~~ and odor, and impacts to air, water quality, and hydrology on surrounding land uses, and natural resources, and existing and planned airport capacities, facilities, lands, and operations.
- (4) Comply with the outdoor lighting provisions (except fixture mounting height standards) of this Code.
- (5) Cause minimal impacts to onsite and offsite ambient surface or groundwater levels quality and quantity.
- (6) Maintain established premining wet and dry season water level elevations and hydroperiods to restore and sustain water resources and adjacent wetland hydrology on and off-site during and upon completion of the mining operations.
- (7) Preserve and enhance existing natural flowways that the County deems important for local or regional water resource management.

- (8) Restore historic flowways that the County deems important for local or regional water resource management.
 - (9) Preserve indigenous areas that are occupied wildlife habitat to the maximum extent possible.
 - (10) Provide interconnection to off-site preserves and conservation lands via indigenous preservation, flowway preservation or restoration, and appropriate planted open space or buffer areas.
 - (11) Maintain minimum surface and groundwater levels within the site boundaries as deemed appropriate by Natural Resources staff during the MEPD approval process.
 - (12) Be designed to mimic or restore the natural system predisturbed water budget.
- (c) *Setbacks for excavation site.*
- (1) Excavations are prohibited within:
 - a. 150 feet of an existing street right-of-way line or easement; and
 - b. 150 feet of any private property line under separate ownership.
 - c. ~~660~~150 feet from of any adjacent residential property line.

In all cases, the most restrictive setback will apply.
 - (2) A 500-foot radial setback is required from existing permitted public well sites for mining operations approved after June 24, 2003.
 - (3) To ensure protection of surface and groundwater resources, appropriate excavation setbacks from preserve areas and adjacent properties will be determined through the environmental analysis and review process based upon site specific conditions.
 - (4) The Board of County Commissioners may allow reduced setbacks as part of the MEPD approval provided:
 - a. The reclamation plan indicates how access will be made to future development;
 - b. The reclamation plan indicates that the setback area will not be developed after restoration; and
 - c. A closer setback will not be injurious to other property owners or the water resources.
- (d) *Setbacks for accessory buildings or structures.*
- (1) Setbacks for accessory buildings or structures must be shown on the engineered site plan set.
 - (2) No crusher, mixing plant, bin, tank or structure directly involved in the production process may be located less than:
 - a. 660 feet from any residentially zoned property or use under separate ownership; or
 - b. 250 feet from all nonresidential zoning districts under separate ownership.

To allow flexibility, the general area of accessory buildings, structures and processing facilities must be shown on the site plan with the appropriate setbacks noted.
- (e) *Minimum lot size.* All uses permitted under this subdivision must have a minimum lot size of ten acres.
- (f) *Security.* All entrances to mining activity areas must be restricted from public access during working hours and locked at all other times.
- (g) *Reclamation Standards.* Mining operations will be subject to the reclamation standards set forth in section 12-119.
- (h) *Transportation impacts.* Mine operations will be subject to the transportation mitigation standards set forth in section 12-116. This section requires the mine operator to be fully responsible for maintaining,

repairing or replacing the accesses to the mine within the limits of the site related improvements as defined in section 12-116(c)(3).

- (i) *Fire protection.* The mining operation must be designed to provide adequate fire protection, transportation facilities, wastewater treatment and water supply. The owner or operator, at its sole cost, will be responsible for providing these services and facilities in the event of a deficiency.
- (j) *Maximum depth.* The Board of County Commissioners will establish maximum excavation depths and mining activity depth after reviewing the findings and recommendations of the South Florida Water Management District and County staff, as applicable. The permitted depth may not exceed the depth permitted by the South Florida Water Management District or County staff, as applicable and may not penetrate through impervious soil or other confining layer that presently prohibits intermingling of two or more aquifers.
- (k) *Certificate to dig; historic management plan.* When applicable, an archaeological/historic resources certificate to dig must be obtained from the County and submitted as part of the application. Florida Master Site File forms for historical or archaeological resources, facade or other historic or scenic easements related to the subject property or reports prepared by a professional archaeologist as may be required by chapter 22 must be submitted to the Director.
- (l) *Open Space.* For purposes of chapter 12 only, open space requirements applicable to the mine will be deemed satisfied if the mine site maintains the buffers, indigenous area, setbacks, and wildlife habitat areas required under this chapter or as otherwise provided in the approved MEPD resolution. The lake (or mine footprint) is considered the impacted area and is not included as a means of meeting open space requirements otherwise contemplated by the underlying zoning approvals.
- (m) *Indigenous Preservation and Replanting.* Mines must provide 25 percent of the project site as indigenous preservation or as on-site indigenous replanting if the property does not contain existing indigenous plant communities.

Created marsh wetland littoral zone areas may be counted towards the on-site indigenous preservation requirements.

On-site indigenous replanting plans approved by the County must include a minimum of four native tree and four native shrub species. Native trees must be installed at a minimum of 100 feet on center per acre and native shrubs must be installed at a minimum of 50 feet on center per acre. 50 percent of the native trees must be three feet tall and the balance of the trees may be one foot tall. Native shrubs must be installed at one gallon container size. No more than 25 percent of one species can be utilized. Indigenous replanting areas must have 80 percent survivability for a period of five years and be maintained in perpetuity. The indigenous preserve and replanting areas must be designed to provide interconnectivity to adjacent preserves and conservation lands with a particular emphasis on the incorporation of existing and historic flowways. An indigenous management plan must be submitted to address the long term maintenance of the on-site preservation/conservation easement areas.

The created marsh wetland littoral zone, indigenous preserves, replanted indigenous areas, preserved and restored flowways, buffers, and open space used to meet County requirements must be maintained in perpetuity even with a change in land use.

- (n) *Invasive Exotic Removal.* An invasive exotic removal plan must be adopted as part of the MEPD approval that is acceptable to environmental sciences. The removal may be phased with long term maintenance continuing in perpetuity. The invasive exotics to be removed must be consistent with section 10-420(h).
- (o) *Buffers.* Buffers are required in accordance with the following standards.
 - (1) The following buffers must be provided when the mine property abuts the listed use or zoning district, whichever is most restrictive:
 - a. *Right-of-way:*
 - 1. Minimum 50 feet width, maintained at natural grade;

2. Every 100 feet of the right-of-way buffer must consist of:
 - Ten ten-foot trees with two-inch caliper and four-foot spread
 - Ten 5-foot trees with one-inch caliper and two-foot spread
 - 100 native shrubs 24 inches in height
 3. 50 percent of the required trees must be native pines; 30 percent must be large native canopy trees (e.g. live oaks); and 20 percent native palms or appropriate native wetland vegetation.
- b. *Residential:*
1. Minimum 150 feet width, maintained at natural grade;
 2. Every 100 feet of the residential buffer must consist of:
 - Fifteen ten-foot trees with two-inch caliper and four-foot spread
 - Ten five-foot trees with one-inch caliper and two-foot spread
 - 150 native shrubs 24 inches in height
 3. 50 percent of the required trees must be native pines; 30 percent must be large native canopy trees (e.g. live oaks); and 20 percent native palms or appropriate native wetland vegetation.
- c. *Agricultural:*
- Minimum 50-foot width, maintained at natural grade.
- d. *Conservation Lands:*
1. Minimum 100-foot width, maintained at natural grade;
 2. Every 100 feet of the conservation lands buffer must consist of:
 - Ten ten-foot trees with two-inch caliper and four-foot spread
 - Ten five-foot trees with one-inch caliper and two-foot spread
 - 100 native shrubs 24 inches in height
 3. Seeded with native herbaceous plants.
- (2) *Standards applicable to all Buffers.*
- a. Vegetation must be allowed to grow to natural height and form. Trimming is limited to health and safety maintenance pruning (i.e. shrubs, trees, and palms may not be hedged or formally shaped).
 - b. Buffer plantings must occur at grade, unless otherwise conditioned within the MEPD resolution.
 - c. Existing native vegetation may be used to meet the buffer requirements.
 - d. The County may grant a request to use smaller plant material, as long as the equivalent overall height is achieved per linear foot.
 - e. Buffer plants may not be installed in a straight line. Plantings must be installed in a random fashion throughout the width of the buffer to mimic a natural system.
 - f. The Director has the discretion to require a more restrictive buffer when deemed necessary for compatibility in accord with the following:

1. If a berm is deemed necessary by the County, it must be located at the distance closest to the mine within the buffer. Berms may not exceed 3:1 slope and must be limited to a maximum height of eight feet.
 2. If any portion of the buffer plantings is to occur on the berm, a specific condition must be included in the MEPD resolution or MDO approval.
- g. Buffers must be installed prior to issuance of a MOP (via final MDO certificate of compliance) and prior to the excavation of materials for hauling off-site.
 - h. Created marsh wetland littoral zone areas, on-site indigenous preserve areas and wildlife habitat areas may be counted towards the buffer area requirements.
- (p) *Wildlife habitat.* In order to provide interconnectivity of wildlife habitat areas, including Florida panther and Florida black bear habitat, and to allow these large mammals to move locally within their range, projects located within any USFWS Florida panther protection zone must be designed to allow movement of Florida panther and Florida black bear through indigenous preserves or appropriately planted buffer and open space areas. If existing adjacent uses are not suitable for Florida panther or Florida black bear, then a deviation from this requirement may be requested during the MEPD application process.
- (1) Local wildlife habitat areas must be a minimum 300 feet wide, designed to allow mammals to traverse the project property, and connect to adjacent preserves or conservation lands that are existing or anticipated to occur in the future.
 - (2) Prior to the issuance of a MOP, the 300-foot wide area must be planted with a continuous native shrub hedge (33 shrubs per 100 linear feet; minimum three-gallon container size) along the perimeter of the habitat area and a minimum of 20 native trees per 100 linear foot clustered (minimum ten trees per cluster; minimum 7-gallon container size) within the habitat area to provide cover. Existing native vegetation may be used to meet the planting requirement.
 - (3) The wildlife habitat plantings may count toward any buffer, general tree, or indigenous replanting requirement if they meet the minimum standards for buffers, general trees, or indigenous replanting.
 - (4) Preferred vegetation includes, but is not limited to:

Trees: live oak (*Quercus virginiana*), laurel oak (*Quercus laurifolia*), south Florida slash pine (*Pinus elliottii* var. *densa*), cypress (*Taxodium distichum*; *Taxodium ascendens*)

Shrubs: wax myrtle (*Myrica cerifera*), cocoplum (*Chrysobalanus icaco*), saw palmetto (*Serenoa repens*), Florida privet (*Forestiera segregata*).
 - (5) Created marsh wetland littoral zone areas, on-site indigenous preserve areas and buffer areas may be counted towards the wildlife habitat area requirements.
- (q) *Truck and tire wash.* The use of a truck and tire wash system is mandatory for all projects. The truck and tire wash must:
- (1) Be installed on the property with a minimum setback of 150 feet from the project boundary;
 - (2) Be located on the paved access connection at least 100 feet from the interior terminus of the paved access connection; and
 - (3) Provide water quality treatment and recycling for the truck and tire wash water.
- (r) *Truck staging.* Truck staging within limits of either public or private roads external to the mine site is prohibited. The mine is required to provide adequate on-site stacking space to accommodate staging of mine trucks arriving at the site prior to the opening of the mine for active hauling operation.
- (s) *Best management practices.* Contractors, sub-contractors, laborers, material men, and their employees using, handling, storing, or producing regulated substances must use the applicable best management practices generally accepted in the industry.

- (t) *Pollution prevention plan.* A Pollution Prevention Plan must be approved by the County and kept on the mine site. The plan must address potential sources of contamination and provide Best Management Practices (BMPs) to avoid on-site and off-site surface water and groundwater contamination. The plan must include an inspection program to ensure the proper operation of the implemented BMPs and contaminant spill containment and disposal procedures.
- (u) *Deviations and variances.* A deviation or variance from the design standards may be granted only through the MEPD approval process except as otherwise expressly provided in this section.

(Ord. No. [08-21](#), § 2, 9-9-08)